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Senator Dianne Feinstein

of California

Senator Feinstein Introduces Private Bill to Grant Permanent Resident Status to Reedley Family

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Washington, DC -- U.S. Senator Dianne Feinstein (D-Calif.) has introduced legislation to grant permanent resident status to members of the Buendia family, a Mexican family living in the Fresno area facing deportation.

The legislation would grant lawful permanent residence status to Jose and Alicia Buendia and their daughter 15-year old Ana Laura. The couple also has a 13-year old son, Jose, who is a United States citizen.

Jose and Alicia Buendia have lived in the United States since the 1980s. They currently live in Reedley, Calif., where they own their own home. Jose is a construction worker and has been employed by Bone Construction for the past five years. Alicia works as a seasonal fruit packer. Their daughter, Ana Laura, is in 10th grade at Reedley High School and has earned a 4.0 GPA.

The Buendias will not be deported as long as the private bill is pending before Congress. Without this private bill, the Buendias would have been deported to Mexico on January 31, 2004. Private legislation is usually introduced on behalf of individuals whose compelling circumstances require Congress to act when administrative or legal remedies have been exhausted.

The following is the statement which Senator Feinstein entered into the Congressional Record:

“Mr. President, I rise today to offer legislation to provide lawful permanent residence status to Jose Buendia Balderas, Alicia Aranda De Buendia and Ana Laura Buendia Aranda, Mexican nationals who live in the Fresno area of California.

I have decided to introduce legislation on their behalf because I believe this family is deserving of an exception. Firstly, an immigration judge has granted the family relief, only to have that decision overturned by the Board of Immigration Appeals. Immigration Judge Polly A. Webber held that Jose Buendia and his wife, Alicia Aranda de Buendia, should be granted cancellation of removal under the Immigration and Nationality Act. In her decision, Immigration Judge Webber stated that she felt that the Buendia’s 9-year old son would face exceptional and extremely unusual hardship if the family was deported from the United States.

The immigration judge’s decision was based on testimony taken from Jose and Alicia Buendia, as well as Alicia Buendia’s sister, who is a lawful permanent resident. The immigration judge found that if the Buendia’s son ‘wanted to go to school in Mexico past the sixth grade, he would have major obstacles in being able to do so, which the Court can only

take as extreme hardship in terms of two hour transportation that may or may not be available, separation from parents, perhaps having to live in a strange environment with strange people, moving away from his relatives in the United States ... being subjected to substandard health care, economic instability, and poor living conditions.'

Unfortunately, the Board of Immigration Appeals overturned the immigration judge's decision. In a one paragraph decision the Board of Immigration Appeals concluded 'that the respondent failed to establish the required hardship to his United States citizen son, who was age 9 at the time of the hearing.' That one sentence was the basis for overturning an immigration judge's decision.

Secondly, Mr. Buendia attempted to legalize his immigration status but was not successful due to an unscrupulous lawyer and a misinterpretation by the Immigration and Naturalization Service concerning applicants eligibility to apply for legalization under the 1986 amnesty law. Because Mr. Buendia has been in this country for so long, he qualified for legalization pursuant to the Immigration and Reform Control Act of 1986. Unfortunately his legalization application was never acted upon.

One reason it was not acted upon is because his attorney, Jose Velez, was convicted of fraudulently submitting legalization and Special Agricultural Worker applications. Because of the criminal conviction, all of Mr. Velez's applications were suspect. Although Mr. Buendia's application under the legalization program was found *not* to contain any fraudulent documentation associated, here began his problems.

Mr. Buendia's legalization application was flagged under *Operation Desert Deception*, a large-scale investigation which targeted providers of fraudulent applicants and documentation under the legalization and Special Agricultural Workers program. Dozens of people, including INS officers, were convicted of legalization fraud, bribery or tax evasion. At the time of filing Mr. Buendia's application with the Immigration and Naturalization Service the attorney, Jose Velez, was under investigation.

Although Mr. Buendia qualified for legalization because he arrived in the United States prior to January 1, 1982 he was not able to attend his interview in 1990 due to the investigation into his attorney.

Thirdly, it took the Immigration and Naturalization Service nearly seven years to make a finding concerning his case. He was originally scheduled to be interviewed in June of 1990 on his application for legalization. The official Memo to File by the Immigration and Naturalization Service determining Mr. Buendia's application contained no fraudulent information was not posted until January 1997.

Fourthly, in the intervening years another problem arose. An interpretation by the Immigration and Naturalization Service as to the application of the law to legalization cases such as Mr. Buendia's. Because Mr. Buendia departed the United States in 1987 to marry his wife in Mexico, the Immigration and Naturalization Service stated he was no longer eligible for legalization when it again reviewed his application in 1997. This issue was litigated in *CSS v. Meese* and Mr. Buendia was a class member in this lawsuit. Unfortunately this lawsuit proved unhelpful to Mr. Buendia because the end result of the litigation was a much more limited class of eligible applicants.

Finally, and of substantial importance, this family has been here for 17 years and built a life here. The Buendias own property, are hard workers, are community minded and have two children in school—one of whom is a U.S. citizen. Mr. Buendia is a valued employee of Bone Construction. He has been employed by this cement company for the past five years. He has proven himself, rising to become a lead foreman. His employer, Timothy Bone, says Mr. Buendia is a ‘reliable, hardworking and conscientious’ employee.

Mr. Buendia has an exemplary work history. From 1981 to 1989 he worked for Ascension Hernandez as a landscaper in League City, Texas. Thereafter he moved to Las Vegas, Nevada where he continued to work in landscaping. In 1990 he and his family settled in Reedley, California where he began working in construction. Knowing nothing about construction, having a background in landscaping, Mr. Buendia was disciplined and persistent in his training and is now a lead foreman for a cement construction company. Mr. Buendia is such a hard worker that he even has his own cement company, which he works on weekends.

Alicia Buendia, Jose Buendia’s wife, works as a seasonal fruit packer. Cliff Peters, the owner of Wildwood Orchards where Alicia Buendia worked during the 2003 season, says she is ‘a hard worker, dependable, and consistently did a good job.’ He added that work would be available to her on an ongoing seasonal basis. Mrs. Buendia has worked as a seasonal fruit packer for several years.

Their daughter, Ana Laura, is in the 10th grade at Reedley High School where she has earned a 4.0 GPA which shows she is a highly motivated student. An important consideration in this case is that Ana Laura was brought to the United States by her parents when she was only two years old. Ana Laura, who will be 16 years old this year, has known no other country than the United States. She believes she is an American. But now she is told she must return to Mexico, a country she has never lived in.

The Buendia’s son, Jose, who was born in the United States, is in 8th grade. Like his sister, this is the only country he knows.

Ana Laura and Jose’s elementary school principal speaks highly of not only the children but the Buendias -- even though the children are now in high school. Mary Ann Carouso, Principal, says in an email to my office, ‘I can tell you that I have rarely met 2 more active, concerned, supportive parents than Alicia and Jose Buendia! ... I don’t think they ever missed a parent club meeting.’ Principal Carouso also says that ‘Both Jose and Alicia continued to help at our school for several years after their youngest child had graduated ...Jose, Sr. frequently hauled chairs across a dark parking lot at 9:00 p.m. at night following a parent club meeting ...He often talked about what parents should be doing to help the school out so that excess money didn’t have to be spent on simple construction projects. Alicia is a mom who just never says no to requests for help.’ With that type of endorsement it seems to me we should be thankful to have such involved parents in our communities.

This family has embraced the American dream, and I believe they should be allowed to continue to live in this country. If this legislation is approved, the Buendias will be able to continue to make significant contributions to their community and the United States. It is my hope that Congress passes this private legislation.”

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